

## REMARKS

Applicants respectfully request reconsideration of this application in light of the above amendments and the following remarks that are in response to the final office, mailed March 28, 2011.

### Claims Status

Claims 1, 19 and 23 have been amended. Claims 3 and 6-18 have been cancelled, without prejudice. New claims 27-29 have been added. Therefore, claims 1-2, 4-5 and 19-29 remain pending for examination.

### 35 U.S.C. § 103 Rejection

Claims 1-2, 4-5 and 19-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bailey, et al. ("*Bailey*"), U.S. Patent No. 6,185,623, further in view of Riedle ("*Riedle*"), U.S. Patent 6,983,334.

Claim 1, as amended, recites:

A method comprising:  
initiating, by an active device on behalf of a group of devices, a downloading session to a group address associated with the group of devices, wherein the group of devices includes the active device and a plurality of passive devices, wherein initiating includes downloading a file to be transmitted as a plurality of packets of data by the active device and a first set of the plurality of passive devices;  
checking, by a second set of the plurality of passive devices, for packet gaps once the download of the file is completed, wherein the packet gap occurs if the file size is known and a number of packets of the plurality of packets are lost and a total size of the number of lost packets is less than a pre-selected amount, wherein checking includes tracking a continuity of two or more package gaps; and  
promoting one or more of the second set of the plurality of passive devices to being one or more smart devices if the packet gap is detected for the one or more of the second set of the plurality of passive devices, wherein the second set of the plurality of passive devices are tracked and the one or more of the second set of the plurality of passive devices are proactively selected and promoted to becoming the one or more smart devices, wherein the second set of the plurality of passive devices to track

packet gap information relating to one or more of the packet gaps, the packet gap information including sizes of the packet gaps or frequencies of the packet gaps, and wherein the one or more of the second set of the plurality of passive devices are promoted to being the one or more smart devices or become one or more active devices based on the track packet gap information.  
(emphasis added)

Applicants continue to disagree with the Examiner's characterization of the cited references and the pending claims. Nevertheless, Applicants submit additional amendments to the claims to further clarify the limitations of the independent claim and expedite the matter to allowance. Applicants respectfully submit that *Bailey* and *Riedle*, neither individually nor when combined, teach or reasonably suggest "packet gaps" as recited by claim 1 and consequently, the cited references do not teach or reasonably suggest "wherein the second set of the plurality of passive devices are tracked and the one or more of the second set of the plurality of passive devices are proactively selected and promoted to becoming the one or more smart devices, wherein the second set of the plurality of passive devices to track packet gap information relating to one or more of the packet gaps, the packet gap information including sizes of the packet gaps or frequencies of the packet gaps, and wherein the one or more of the second set of the plurality of passive devices are promoted to being the one or more smart devices or become one or more active devices based on the track packet gap information" as recited by claim 1 (emphasis provided).

As aforementioned, Applicants maintain that *Bailey* discloses "[b]ooting diskless workstations by subnet broadcasting load programs to all network stations that join in subnet broadcast file group". (*Bailey*, abstract). *Bailey* does not teach or reasonably suggest "initiating, by an active device on behalf of a group of devices . . . wherein

initiating includes downloading a file to be transmitted as a plurality of packets of data by the active device and a first set of the plurality of passive devices . . . [and] checking, by a second set of the plurality of passive devices, for packet gaps once the download of the file is completed . . . wherein checking includes tracking a continuity of two or more package gaps” as recited by claim 1. (*claim 1*; emphasis added). The Examiner acknowledges the deficiencies of *Bailey*, but relies on *Riedle* for the alleged support. (*see office action*, mailed 11/09/10, pg. 4). Applicants respectfully disagree.

*Riedle* discloses tracking missing packets and further discloses “when the client is determining *which packet(s) or groups to re-request*, the client checks the array for holes (i.e., 0’s) and re-requests the packet(s) represented by each hole found.” (*Riedle*, abstract). *Riedle* relates to determining which packets to re-request and then re-requesting those packets. Like *Bailey*, *Riedle* does not teach or reasonably suggest checking *packet gaps* or tracking continuity of package gaps as recited by claim 1. Further, *Bailey* and *Riedle*, neither individually nor when combined, teach or reasonably suggest “promoting one or more of the second set of the plurality of passive devices to being one or more smart devices if the *packet gap* is detected for the one or more of the second set of the plurality of passive devices” as recited by claim 1.

Accordingly, for at least the reasons set forth above with respect to claim 1, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 19 and 23 contain limitations similar to those of claim 1. Accordingly, for at least the reasons set forth above with respect to claim 1, Applicants respectfully request the withdrawal of the rejection of claims 19 and 23 and their dependent claims.

### **New Claims**

New claims 27-29 depend from one of claims 1, 19 and 23 and thus include all the limitations of their corresponding base claim. Accordingly, for at least the reasons set forth above with respect to claim 1, Applicants respectfully request the withdrawal of the rejection of claims 27-29.

### **Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

### **Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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/Aslam A. Jaffery/

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